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ABSTRACT

The regulations of the New York City Board of Education which spell out an individual's right to have access to Board of Education records are given. The regulations reflect the Board of Education's attempt to meet the requirements of the New York State Freedom of Information Law of 1977. The regulations deal with the following topics: (1) the designation of an official who will handle requests for access to records and maintain a list of all Board of Education records; (2) procedures for: record inspection and copying, denial of access to records, and appeal of denial decisions; (3) the definition of "records"; (4) the definitions of "records exempted from public access"; (5) procedures for preventing unwarranted invasions of privacy; (6) the designation of the Chancellor's authority to issue rules and regulations to implement these regulations; (7) instructions to community school boards for providing access to community board records; and (8) clarification of how these regulations affect existing procedures for records access and Board of Education record keeping. (Author/BE)

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REGULATIONS OF THE BOARD OF EDUCATION OF THE CITY OF NEW YORK RELATING TO INSPECTION AND COPYING OF RECORDS, IN ACCORDANCE WITH THE FREEDOM OF INFORMATION LAW, CHAPTER 933, LAWS OF THE STATE OF NEW YORK 1977 (replacing previous regulations adopted March 19, 1975)

ADOPTED AT A PUBLIC MEETING OF THE BOARD OF EDUCATION JUNE 7, 1978

UD 20130

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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The Chancellor presents the following resolution for adoption:

WHEREAS, it is the policy of the City Board of Education to inform members of the public about the administration and operation of the public schools in accordance with established policies of the City Board of Education and applicable State and Federal laws including the Freedom of Information Law of the State of New York, it is,

RESOLVED, that the following policies and rules shall apply to access to records of the Board of Education of the City of New York

I. Designation of Records Access Officer

1. The Records Access Officer shall be the Assistant Superintendent in charge of the Office of Public Affairs, whose office is located at 110 Livingston Street, Room 1214, Brooklyn, NY 11201

2. The Records Access Officer is designated to receive requests for records of the City Board of Education and make such records available for inspection or copying when such requests are granted.

3. The Records Access Officer shall compile and maintain a reasonably detailed current list by subject matter of all records in the possession of the City Board of Education whether or not available under records access.

II. Access to records

1. Time and place records may be inspected or copied: The following office is designated to receive requests for records of the City Board of Education and make such records available for inspection or copying:

Records Access Officer
City Board of Education
110 Livingston Street, Room 1214
Brooklyn, NY 11201

Records may be requested from, and inspected or copied at, the Office of the Records Access Officer or at the location specified by the Records Access Officer on any business day on which the City Board of Education headquarters offices are open, in accordance with Regulations established by the Chancellor.

2. Fees: The Chancellor shall establish fees for copies of available records.

3. Procedures to be followed: Requests to inspect or secure copies of records shall be submitted in writing, either in person or by mail, to the Records Access Officer.

4. All requests for information shall be responded to within five business days of receipt of the request. If the request cannot be fulfilled within five business days, the Records Access Officer shall acknowledge receipt of the request and advise the approximate date when the request will be granted or denied.

5. Denial of Access: When a request for access to a public record is denied, the Records Access Officer shall indicate in writing the reasons for such denial, and the right to appeal.

6. Appeal: An applicant denied access to a public record may file an appeal by delivering a copy of the request and a copy of the denial to:

Secretary/Counsel
City Board of Education
110 Livingston Street, Room 1110
Brooklyn, NY 11201

within 30 days after the denial from which such appeal is taken.

7. The President of the Board of Education shall designate two (2) Board Members to decide the appeals. In the event of a divided opinion the appeal is to be submitted to the Board of Education for decision.

(a) The Secretary/Counsel shall transmit to the New York State Committee on Public Access to Records photocopies of all appeals upon receipt of an appeal.

(b) The Secretary/Counsel shall inform the appellant and the Committee on Public Access to Records of its determination in writing within seven business days of receipt of an appeal.

(c) Following a final denial of access to a requested record, the requestor may seek review of the denial of access under the provisions of Article 78 of the Civil Practice Law and Rules.

III. Definition of Records:

a. All records indicated in the Freedom of Information Law, including reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes which are the "records" of the City Board of Education;

b. Records of the final votes of each member of the City Board of Education on any proceeding or matter on which the members vote;

c. A record setting forth the name, school or office address, title and salary of every officer or employee of the City Board of Education. Such records shall be made available for inspection under the supervision of the Records Access Officer;

d. A reasonably detailed current list by subject matter, of all records in possession of the City Board of Education, whether or not available for public inspection and copying.

IV. Records exempted from public access

The provisions of this resolution relating to information available for public inspection and copying shall not apply to:

1. Inter-agency or intra-agency materials which are not:

   a. statistical or factual tabulations or data;

   b. instructions to staff which affect the public, or

   c. final City Board of Education policy determinations;

2. information which if disclosed would constitute an unwarranted invasion of personal privacy;

3. information specifically exempted by statute;

4. information which if disclosed would impair present or imminent contract awards or collective bargaining negotiations;

5. information confidentially disclosed to the City Board of Education and compiled and maintained for the regulation of commercial enterprise, including trade secrets, or for the grant or review of a license;

6. information constituting part of investigatory files compiled for law enforcement purposes and which, if disclosed, would:

   a. interfere with law enforcement investigations or judicial proceedings;

   b. deprive a person of a right to a fair trial or impartial adjudication;

   c. identify a confidential source or disclose confidential techniques or procedures, except routine techniques or procedures;

7. information which if disclosed would endanger the life or safety of any person.

8. the personnel files maintained for individual employees, except as required by law.

V. Prevention of unwarranted invasion of privacy

To prevent an unwarranted invasion of personal privacy, the Records Access Officer may delete identifying details when records are made available. An unwarranted invasion of personal privacy includes but shall not be limited to:

a. disclosure of confidential personal matters reported to the City Board of Education which are not relevant or essential to the ordinary work of the City Board of Education;

b. disclosure of employment, medical or credit histories or personal references of applicants for employment unless the applicant has provided a written release permitting such disclosures;

c. sale or release of lists of names and addresses in the possession of the City Board of Education if such lists would be used for private, commercial or fund-raising purposes;

d. disclosure of items of a personal nature when disclosure would result in economic hardship to the subject party and such records are not relevant or essential to the ordinary work of the City Board of Education;

e. disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.

IV. Issuance of regulations by the Chancellor

The Chancellor is authorized to issue rules and regulations to implement the provisions of this resolution. These rules and regulations shall pertain to the times and places such records may be obtained, the fees, to the extent authorized by law, for copies of such information, and the procedures to be followed, consistent with the policies of the City Board of Education, the Freedom of Information Act, and other applicable State, Federal and local laws and regulations.

VII. Access to records of community school boards

1. In compliance with the Law, each Community School Board shall adopt rules and regulations relating to public access to records of its Community School District, pertaining to the availability, location and nature of such records, including but not limited to the designation of Records Access Officer (s), the times and places such records may be obtained, the fees, to the extent authorized by law, for copies of such information, and the procedures to be followed. Such rules and regulations shall be consistent with the policies contained in this resolution, other applicable State, Federal and local laws and regulations.

2. A copy of such rules and regulations shall be posted in conspicuous places in each Community School District. Each Community School Board shall also file a copy of its rules and regulations with the Division of Community School District Affairs.

3. An applicant denied access to a public record of a Community School Board may appeal the denial of access by delivering a copy of the request and written denial to:

   The Chancellor
   City Board of Education
   110 Livingston Street
   Brooklyn, NY 11201

   within 30 days after the denial from which such appeal is taken.

4. The Chancellor shall decide the appeal within seven business days following receipt of the appeal. The appellant shall be informed in writing of the final decision.

   (a) The Chancellor shall transmit to the New York State Committee on Public Access to Records photocopies of all appeals upon receipt of an appeal.

   (b) The Chancellor shall inform the appellant and the Committee on Public Access to Records of his determination in writing within seven business days of receipt of an appeal.

   (c) Following a final denial of access to a requested record, the requestor may seek review of the denial of access under the provisions of Article 78 of the Civil Practice Law and Rules.

VIII. These regulations shall not limit or abridge any existing right of access of any party to public records kept by the City Board of Education. To that end, written requests shall not be required for records that have been customarily available without written request. The rules and regulations contained herein are subject to modification in accordance with any and all regulations promulgated by the Committee on Public Access to Records of the State of New York or to the extent such modification is required by law.

IX. Nothing in these regulations shall require a division or other unit of the City Board of Education to prepare any record not possessed or maintained by it, except the records specified in III b, c and d above.

EXPLANATION

On March 19, 1975 the City Board of Education adopted a policy and regulations to implement the Freedom of Information Law. Major modifications to that Law resulted in a new Article 6 of Chapter 933 of the Laws of the State of New York which was approved by the State Legislature on August 11, 1977 effective January 1, 1978.

The new law requires each agency to promulgate uniform rules and regulations in conformity with the general rules and regulations of the Committee on Public Access to Records. The law permits the governing body to appoint a designee to act for it in determining appeals.